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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/385,394	08/30/1999	JOHN S. YATES JR.	30585/3	9093

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EXAMINER

ELLIS, RICHARD L

ART UNIT

PAPER NUMBER

2183

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

1. Response to applicant's request for withdrawal of finality of office action.
2. Summary: Applicant's request is not convincing, the final rejection stands, and the shortened statutory period set in paper number 11 remains in effect. Applicant's amendment submitted with the request for withdrawal of finality has not been entered.

Detailed explanations:

3. In point I beginning on page 1 applicant argues that the first action objected to claims 23-26 and 86, and that the final office action withdrew this objection and rejected these claims.

In response, it should be pointed out that the first action in fact rejected claims 23-26, applicant's attention being drawn to paragraph 9 of paper number 8.

Additionally, claim 86 was not rejected in the final office action, as at no point within the office action was a rejection of claim 86 provided. Note especially paragraph 6 of paper 11 which specifically does not list claim 86 as a rejected claim. However, a typographical error is present on form PTO-326, in that claim 86 was inadvertently included within the summary line listing rejected claims. However, it should be noted that form PTO-326 is merely a summary of the rejection, the actual rejection of claims being contained within the detailed pages attached to form PTO-326. Because claim 86 was not treated as rejected within the detailed pages, claim 86 was not in fact rejected.

4. In point II on page 2 applicant argues that footnote 2 on pg. 26 of applicants response argues that no reasonable expectation of success had been shown for the obviousness statement, and that MPEP § 2143.02 says that a reasonable expectation of success is required.

In response, it should be pointed out that a reading of MPEP § 2143.02 is primarily related to chemical compounds where a *success* of a result of a combination of a set of chemical compounds to produce a resultant product is not in all cases predictable, and as such, the obviousness of combining particular compound A with compound B to produce result C is hinged in part upon an expectation that such combining would reasonably lead to a successful byproduct. Such an unpredictability of a result of utilizing two techniques in non-chemical art areas often does not exist, and therefore, to anyone of ordinary skill in those art areas, there is

always an easily visible success from combining components together.

Furthermore, the claim 87 was, when rejected, claiming converting between a first and second calling convention, and the obviousness statement was addressing that one of ordinary skill in the art would recognize that it was necessary to perform this calling convention conversion. There is an absolute expectation of success in this situation because one of ordinary skill in the art would immediately have understood beyond a shadow of a doubt that not performing this conversion would result in erroneous results when attempting to call a subroutine using the different convention, because the subroutine would receive incorrect input data, leading to incorrect results.

Claim 87 was also amended to delete from the claim this calling convention conversion, and as such, a change in the rejection of claim 87 would also have been necessitated by applicants amendment.

5. In point III on page 2 applicant argues that various claims were not treated in either the first or final office action:

Specifically:

claims 31, 52, 64, 70, and 90

Applicant's attention is drawn to paper number 8, paragraph 10.

claims 81 and 122

Applicant's attention is drawn to paragraph 7 of paper number 8.

claims 72, 109, and 115

Applicant's attention is drawn to paragraph 12 of paper number 8.

claim 98

It should be noted that claim 98 was newly submitted in applicants response to the first office action. Applicant's attention is drawn to paragraph 7, sub-parts c and d and paragraphs 13 and 16 all in paper number 11.

6. In point IV on page 3 applicant argues that claim 22 was newly rejected in the final rejection.

Applicant's attention is drawn to page 32 of his response to the first office action where five new lines of text were inserted into claim 22. As such, the rejection of claim 22 was necessitated by applicants amendment of claim 22.

7. In point V on page 4 applicant argues that various "other" points were raised in the final rejection, without pointing out any particular "points".

In response, it should be noted that in responding to applicant's arguments regarding the claim language and the cited references, it is often necessary to further explain or elaborate the office position with additional citations in order to adequately convey to applicant the reasons for why the claims are being rejected. As such, there will of course always be "other" points raised, but such is a normal occurrence and does not constitute a valid reason for withdrawal of finality of an office action.


8. The shortened statutory period for reply set in the final rejection, paper number 11, mailed October 1, 2002 remains in effect.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Richard Ellis whose telephone number is (703) 305-9690. The Examiner can normally be reached on Monday through Thursday from 7am to 5pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eddie Chan, can be reached on (703) 305-9712. The fax phone numbers for this Group are: After-final: (703) 746-7238; Official: (703) 746-7239; Non-Official/Draft: (703) 746-7240.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Richard Ellis
February 6, 2003


Richard Ellis
Primary Examiner
Art Unit 2183